

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**J.A. B/N/F ALREDO ALVAREZ, and
on behalf of other persons similarly
situated,**

Plaintiffs

v.

TEXAS EDUCATION AGENCY,

Defendant

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Case No. 1:19-CV-921-RP

ORDER

Before the Court is Plaintiff’s Second Opposed Motion for Leave of Court to File an Amended Complaint, filed April 20, 2021 (Dkt. 58), and Defendant’s Response in Opposition to Plaintiff’s Motion for Leave to File Second Amended Complaint, filed April 27, 2021 (Dkt. 59). On April 28, 2021, the District Court referred the motion to the undersigned Magistrate Judge for disposition, pursuant to 28 U.S.C. § 636(b)(1)(A), Federal Rule of Civil Procedure 72, and Rule 1(c) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas (“Local Rules”).

Plaintiff seeks leave to file a Second Amended Complaint, pursuant to Federal Rule of Civil Procedure 15(a). Plaintiff’s Certificate of Conference states that Plaintiff’s counsel conferred with Defendant’s counsel before filing the motion. Dkt. 58 at 3. But Plaintiff fails to certify “the specific reason that no agreement could be made,” in violation of Local Rule CV-7(g).¹

¹ Local Rule CV-7(g) provides: “The court may refuse to hear or may deny a nondispositive motion unless the movant advises the court within the body of the motion that counsel for the parties have first conferred in a good-faith attempt to resolve the matter by agreement and **certifies the specific reason that no agreement could be made.** . . . A motion is unopposed only if there has been an actual conference with opposing counsel and there is no opposition to any of the relief requested in the motion.” (emphasis added).

The lack of an adequate certificate of conference is particularly relevant here. In response to Plaintiff's Motion, Defendant alleges that Plaintiff filed this Motion instead of sending Defendant a joint proposal, in violation of the parties' agreement during the status conference held before the District Court on April 7, 2021. Plaintiff did not file a reply brief and has not rebutted Defendant's contention.

Based on the foregoing, Plaintiff's Second Opposed Motion for Leave of Court to File an Amended Complaint (Dkt. 58) is **DENIED** pursuant to Local Rule CV-7(g) without prejudice to refile after Plaintiff confers with Defendant regarding the joint proposal.

IT IS FURTHER ORDERED that the Clerk remove this case from the Magistrate Court's docket and return it to the docket of the Honorable Robert Pitman.

SIGNED on July 21, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE